

Applicant believes that the Examiner has made an arbitrary separation of the inventions based on multiple classification listings. The Examiner cited classifications relate to "dentifrices" and "tooth cleaning", respectively. Hence, each of the above cited claims relate to cleaning teeth. Consequently, a search of "tooth cleaning" compositions would necessarily uncover and, therefore, include a search of all potential uses and methods, thus, imposing no additional searching burden on the PTO.

Furthermore, invention I and invention II disclose the same subject matter (i.e., means for cleaning teeth). Section 806.03 of the MPEP indicates that "[w]here the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required." Therefore, Applicant respectfully submits that the Examiner's restriction requirement under 35 USC §121 lacks support and is, therefore, improper.

Notwithstanding the aforementioned comments, should the restriction be maintained, Applicant provisionally elects, with traverse, invention I.

In view of the foregoing remarks, it is respectfully requested that the Examiner withdraw his requirement for an election of invention and allow the generic claims to be prosecuted on the merits in the present application. In the event that the Examiner's restriction requirement is made final, Applicant affirms the provisional election made above.

Respectfully submitted,

DENNIS G. A. NELSON

By 

Darryl C. Little
Attorney for Applicant
Registration No. 40,703
(973) 385-4401

June 14, 2005

Warner-Lambert Company LLC
201 Tabor Road
Morris Plains, NJ 07950